

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

In re:

**DONAL MARTIN McDONAGH and
MICHELE RAWLS McDONAGH**

Case No. 12-27642 DSK

Debtor.

Chapter 13

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

COMES NOW WestVue NPL Trust by and through its servicer LongVue Mortgage Capital, Inc. (hereinafter “WestVue”), a secured creditor, by and through counsel, and submits its motion for relief from the automatic stay provisions of 11 U.S.C. § 362. In support of its motion, WestVue would show unto the court the following:

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this motion under 28 U.S.C. § 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § (b)(2)(G).

2. Venue is proper for this matter pursuant to 28 U.S.C. § 1408 and 1409.

3. The statutory basis for the relief requested herein is 11 U.S.C. § 362.

STATEMENT OF FACTS

4. The Debtors herein, Donal and Michele McDonagh (hereinafter “Debtors”), filed a Chapter 13 case on July 20, 2012.

5. WestVue is the holder of the August 29, 2007 Promissory Note from the Debtors. Said Note is secured by a Deed of Trust on the real property which is the Debtor’s residence located at 2416 Sanders Ridge, Germantown, TN. Said Deed of Trust is recorded at Instrument

No. 07136288 in the Register's Office of Shelby County, Tennessee. Said Note was modified by the Loan Modification Agreement dated June 30, 2008 and recorded at Instrument No. 08090271 in the Register's Office of Shelby County, Tennessee. Attached hereto as collective Exhibit A and incorporated herein by reference are copies of the above-referenced documents.

6. The subject loan originated with Trust One Bank. Trust one Bank later merged with Synovus Bank. On February 26, 2015, Synovus Bank, as successor in interest by merger with Trust One Bank, assigned the Note and all of the other loan documents for the subject loan to WestVue. Said Assignment was recorded at Instrument No. 16028197 in the Register's Office of Shelby County, Tennessee. Attached hereto as Exhibit B and incorporated herein by reference is a copy of the recorded Assignment.

7. The Debtors' Chapter 13 Plan was confirmed by an order docketed on September 28, 2012. The Plan provided for payment of the ongoing mortgage loan outside of the Plan.

8. The subject loan currently required monthly installment payments of \$6,165.78. The Debtors are in default with the post-petition payments due to WestVue on the subject loan beginning with the installment payment due April 1, 2015 through April 1, 2016. With the unpaid installment payments and unpaid late charges, the total balance as of April 15, 2016 to cure the post-petition default is \$85,061.77, exclusive of attorney fees and costs. The total payoff of the loan as of April 15, 2016, exclusive of attorney fees and costs, is \$522,145.71.

9. WestVue is not adequately protected while the Debtors continue in the use of the residential property without maintaining the ongoing home mortgage payments.

WHEREFORE, PREMISES CONSIDERED, your moveant prays:

1. That WestVue be granted relief from the automatic stay provisions of 11 U.S.C. § 362 to allow it to proceed with foreclosure or to pursue any other appropriate legal remedy as to the real property located at 2416 Sanders Ridge, Germantown, TN;
2. That the provisions of Federal Bankruptcy Rule 4001(a)(3) be waived to allow WestVue to immediately enforce any order granting relief from the automatic stay; and
3. For such other further relief to which your movant may be entitled.

Dated: April 22, 2016.

Respectfully submitted,

/s/ Douglas M. Alrutz

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CERTIFICATE OF SERVICE

I here by certify that on the 22nd of April, 2016, a copy of the foregoing was served on the parties listed below by first-class mail, postage prepaid, unless said party is a registered CM/ECF participant who has consented to electronic notice, and the Notice of Electronic Filing indicates that Notice was electronically mailed to said party:

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/s/ Douglas M. Alrutz

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